IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICITON

NOTICE OF MOTION NO.2409 OF 2006
IN
CUSTOMS APPEAL NO.40 OF 2005

Hari Shanker & sons .. Applicants.

Versus

Commissioner of Customs, Mumbai .. Respondent.

Mr.J.M. Patel for the applicants.

Mr.P.S. Jetly with Mr.C.J. Joy for the respondent.

CORAM : H.L. GOKHALE, &
J.P. DEVADHAR, JJ.

DATED : 12TH OCTOBER, 2006.

P.C. :

1. Heard Mr.Patel in support of this notice of motion. Mr.Jetly appears for the respondent.

2. The motion seeks to recall the order dated 14th June, 2006 passed by the Division Bench dismissing Customs Appeal No.40 of 2005 to which order one of us (Devadhar, J.) is a party. It is pointed out in supporting affidavit to the motion that the counsel appearing for the applicants was out of India and there was an error on the part of the applicants in watching the board. For these reasons that nobody was present and the appeal came to be dismissed on 14th June, 2006.

3. The order dismissing the appeal gave some reasons also apart from dismissal in default. Mr.Jetly appearing for the revenue, however, fairly stated that there are questions which are required to be gone into, particularly one concerning Section 14 of the Limitation Act which was pressed in service by Mr.Patel appearing for the applicants.

4. For these reasons, we recall the order dated 14th June, 2006 dismissing Customs Appeal No.40 of 2005. Delay in making present notice of motion is condoned. Appeal stands restored to the file.

5. The main appeal be listed for hearing on 22nd November, 2006at 3.00 p.m.

6. The notice of motion stands disposed of.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)